

Exhibit 4

COURT REPORTERS
OF AKRON CANTON AND CLEVELAND

Transcript of the Testimony of
Cheryl L. Detloff

Taken On: April 21, 2008
Case Number: 2:06-CV-2141-DGC

Case: Soilworks, LLC, vs. Midwest Industrial Supply, Inc.,

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<p style="text-align: center;">1</p> <p style="text-align: center;">UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ARIZONA</p> <p>SOILWORKS, LLC, an Arizona) corporation,) Plaintiff,) vs.) CASE NO. MIDWEST INDUSTRIAL SUPPLY,) 2:06-CV-2141-DGC INC., an Ohio corporation) ATTORNEYS' EYES authorized to do business) ONLY PORTIONS in Arizona,) CONTAINED WITHIN Defendant.)</p> <p style="text-align: center;">---</p> <p>Deposition of CHERYL L. DETLOFF, a witness herein, called by the Plaintiff for Examination pursuant to the Federal Rules of Civil Procedure, taken before me, the undersigned, Binnie Purser Martino, a Registered Diplomat Reporter, Certified Realtime Reporter and Notary Public in and for the State of Ohio, pursuant to Notice and agreement of counsel at the offices of Court Reporters of Akron, Canton and Cleveland, 221 Springside Drive, Akron, Ohio, on Monday, the 21st day of April, 2008, commencing at 9:47 o'clock a.m.</p>	<p style="text-align: right;">3</p> <p style="text-align: center;">INDEX</p> <p>1</p> <p>2</p> <p>3 EXAMINATION (By Mr. Dosek) 4</p> <p>4</p> <p>5 Plaintiff's Exhibit 10 48</p> <p>6 Plaintiff's Exhibit 11 57</p> <p>7 Plaintiff's Exhibit 12 62</p> <p>8 Plaintiff's Exhibit 13 77</p> <p>9 Plaintiff's Exhibit 14 81</p> <p>10 Plaintiff's Exhibit 15 82</p> <p>11 Plaintiff's Exhibit 16 83</p> <p>12 Plaintiff's Exhibit 17 84</p> <p>13 Plaintiff's Exhibit 18 86</p> <p>14 Plaintiff's Exhibit 19 89</p> <p>15 Plaintiff's Exhibit 20 92</p> <p>16 Plaintiff's Exhibit 21 94</p> <p>17 Plaintiff's Exhibit 22 98</p> <p>18 Plaintiff's Exhibit 23 111</p> <p>19 Plaintiff's Exhibit 24 116</p> <p>20 Plaintiff's Exhibit 25 121</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: center;">2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 On Behalf of the Plaintiff:</p> <p>4 KUTAK ROCK LLP</p> <p>5 BY: E. Scott Dosek, Attorney at Law</p> <p>6 Suite 300</p> <p>7 8601 North Scottsdale Road</p> <p>8 Scottsdale, Arizona 85253-2742</p> <p>9 480/429-5000</p> <p>10</p> <p>11 On Behalf of the Defendant:</p> <p>12 BROUSE McDOWELL</p> <p>13 BY: John M. Skeriotis Attorney at Law</p> <p>14 388 South Main Street, Suite 500</p> <p>15 Akron, Ohio 44311-4407</p> <p>16 330/535-9999</p> <p>17 ALSO PRESENT:</p> <p>18 Chad Falkenberg</p> <p>19 Robert Vitale</p> <p>20 ---</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">4</p> <p>1 CHERYL L. DETLOFF</p> <p>2 of lawful age, a witness herein, having been</p> <p>3 first duly sworn, as hereinafter certified,</p> <p>4 deposed and said as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. DOSEK:</p> <p>7 Q. State your full name, please.</p> <p>8 A. Cheryl L. Detloff. L for Lynn.</p> <p>9 Q. What is your date of birth?</p> <p>10 A. 10/3/64.</p> <p>11 Q. Ms. Detloff, have you ever had your</p> <p>12 deposition taken before?</p> <p>13 A. No.</p> <p>14 Q. Have you ever testified in court before?</p> <p>15 A. Yes.</p> <p>16 Q. How many times?</p> <p>17 A. I don't recall.</p> <p>18 Q. More than five?</p> <p>19 A. Yes.</p> <p>20 Q. When was the last time you testified in</p> <p>21 court?</p> <p>22 A. Probably six months ago.</p> <p>23 Q. What kind of a proceeding was that?</p> <p>24 A. Child visitation.</p> <p>25 Q. Okay. You understand that you were just</p>

<p style="text-align: right;">25</p> <p>1 BY MR. DOSEK:</p> <p>2 Q. Which is which?</p> <p>3 A. I don't recall.</p> <p>4 Q. Do you know who Todd Hawkins is?</p> <p>5 A. Yes.</p> <p>6 Q. How do you know him?</p> <p>7 A. I used to work with him.</p> <p>8 Q. What was his job when you worked with him?</p> <p>9 A. I don't recall his exact title.</p> <p>10 Q. Was he there when you joined Midwest</p> <p>11 Industrial Supply?</p> <p>12 A. No.</p> <p>13 Q. So he came after you were already there and</p> <p>14 he is no longer employed there, correct?</p> <p>15 A. Correct.</p> <p>16 Q. Did you ever report to him?</p> <p>17 A. For a period of time, yes.</p> <p>18 Q. But you don't know what -- do you know what</p> <p>19 his title was at that time that you reported to</p> <p>20 him?</p> <p>21 A. No.</p> <p>22 Q. Do you know what his job responsibilities</p> <p>23 were when you reported to him?</p> <p>24 A. He was a Development Manager.</p> <p>25 Q. As a Development Manager, do you know what</p>	<p style="text-align: right;">27</p> <p>1 in the court papers?</p> <p>2 A. Could you be more specific?</p> <p>3 Q. Are you aware of any of the allegations</p> <p>4 that have been made by Soilworks against Midwest</p> <p>5 that Soilworks is asking the court to resolve?</p> <p>6 A. I have not seen any of that paperwork.</p> <p>7 Q. And you are not aware of any of that?</p> <p>8 A. I am aware that there is litigation going</p> <p>9 on. The specifics, I don't know exactly what</p> <p>10 their -- you know, their specifics as to what</p> <p>11 they are counter-suing or suing us for.</p> <p>12 Q. Are you aware of any of the claims that</p> <p>13 have been asserted by Midwest against Soilworks?</p> <p>14 A. I believe patent infringement.</p> <p>15 Q. Okay. Anything else?</p> <p>16 A. Oh, shoot. Trademark infringement.</p> <p>17 Q. Anything else?</p> <p>18 A. That is it.</p> <p>19 Q. Okay. Are you aware of which product or</p> <p>20 products Midwest Industrial Supply believes</p> <p>21 infringe its patent?</p> <p>22 A. Yes.</p> <p>23 Q. Which?</p> <p>24 A. EnviroKleen, EK35. Or could you please</p> <p>25 restate that?</p>
<p style="text-align: right;">26</p> <p>1 he did on a day-to-day basis?</p> <p>2 A. I don't recall.</p> <p>3 Q. So you did know at one time, and you have</p> <p>4 forgotten, is that what you are telling me?</p> <p>5 A. No. I don't remember the specifics of what</p> <p>6 he did day-to-day. Could you please be more</p> <p>7 specific maybe?</p> <p>8 Q. Tell me generally, what did he do on a</p> <p>9 day-to-day basis, if you don't remember</p> <p>10 specifically.</p> <p>11 A. He worked with some of the field</p> <p>12 development techniques of our products, as well</p> <p>13 as developing new product formulations.</p> <p>14 Q. What does field development techniques</p> <p>15 mean?</p> <p>16 A. Working in the field with our applications</p> <p>17 personnel to develop new techniques for applying</p> <p>18 and testing those techniques.</p> <p>19 Q. Have you seen any of the pleadings that</p> <p>20 have been filed in this litigation?</p> <p>21 A. No.</p> <p>22 Q. Any of the court papers?</p> <p>23 A. No.</p> <p>24 Q. Are you aware of any of the claims that</p> <p>25 have been asserted by Soilworks against Midwest</p>	<p style="text-align: right;">28</p> <p>1 Q. Yes. It probably wasn't worded very well.</p> <p>2 I am asking if you are aware of which product or</p> <p>3 products of Soilworks are alleged to be</p> <p>4 infringing any patent owned by Midwest</p> <p>5 Industrial Supply?</p> <p>6 A. Yes. Durasoil.</p> <p>7 Q. Any others?</p> <p>8 A. No, not that I am aware of.</p> <p>9 Q. Have you done anything in your employment</p> <p>10 with Midwest to determine if, in fact, Durasoil</p> <p>11 infringes any patent?</p> <p>12 MR. SKERIOTIS: Objection. If you</p> <p>13 learned anything with respect to that answer</p> <p>14 pursuant to this litigation after it started or</p> <p>15 pursuant to preparation for litigation, then I</p> <p>16 instruct you not to answer. If you know that</p> <p>17 answer prior to any involvement by any lawyer,</p> <p>18 then you can answer that question.</p> <p>19 THE WITNESS: Could you be more</p> <p>20 specific in your question?</p> <p>21 BY MR. DOSEK:</p> <p>22 Q. Have you done anything in the course of</p> <p>23 your work to determine one way or another</p> <p>24 whether the Durasoil product infringes on</p> <p>25 Midwest's patent?</p>

<p style="text-align: right;">29</p> <p>1 MR. SKERIOTIS: Same objection. 2 And again, unless it is outside of the scope of 3 a lawyer representing Midwest and efforts 4 regarding litigation, then I instruct you not to 5 answer. 6 THE WITNESS: You are asking me 7 if I have done anything personally? 8 BY MR. DOSEK: 9 Q. Yes. 10 MR. SKERIOTIS: But if it is within 11 the scope of your employment pursuant to 12 litigation, then I instruct you not to answer. 13 THE WITNESS: I myself have not 14 done anything outside of the scope of this 15 litigation to determine if Durasoil infringes 16 upon the patent. 17 BY MR. DOSEK: 18 Q. Have you been asked to do anything? 19 MR. SKERIOTIS: Same objection. 20 BY MR. DOSEK: 21 Q. Have you been asked to conduct any kind of 22 analysis or any kind of test on the Durasoil 23 product to make any determination as to whether 24 or not it infringes any patent owned by Midwest? 25 MR. SKERIOTIS: Same objection.</p>	<p style="text-align: right;">31</p> <p>1 testing to make -- to determine whether or not 2 Durasoil infringes on any patent owned by 3 Midwest? 4 MR. SKERIOTIS: Same objection. 5 THE WITNESS: There has been no 6 testing at Midwest Industrial Supply to make 7 that determination. 8 BY MR. DOSEK: 9 Q. Has there been testing that you are aware 10 of at any other facility in an effort to make 11 that determination? 12 MR. SKERIOTIS: Same objection. 13 THE WITNESS: Yes, there was. 14 BY MR. DOSEK: 15 Q. Where? 16 A. Petro-Canada. 17 Q. When was that done? 18 A. I don't recall. 19 Q. How long ago? 20 MR. SKERIOTIS: Remember the scope 21 of his question, so we are accurate in the 22 record. It was for the purposes of 23 infringement, he is asking. Is that right, 24 Scott? Has there been any testing done for 25 purposes of infringement?</p>
<p style="text-align: right;">30</p> <p>1 THE WITNESS: I have not done any 2 testing. 3 BY MR. DOSEK: 4 Q. My question is, have you been asked to do 5 any such testing? 6 MR. SKERIOTIS: Same objection. 7 THE WITNESS: I have not been 8 asked to do any such testing personally. 9 BY MR. DOSEK: 10 Q. Has anyone at, any individual at Midwest 11 Industrial Supply, to your knowledge, been asked 12 to do anything to try to determine whether or 13 not Durasoil violates any patent owned by 14 Midwest? 15 MR. SKERIOTIS: Objection, same 16 objection. Again, if it is pursuant to the 17 scope of litigation and with a lawyer present, I 18 instruct you not to answer. 19 THE WITNESS: I specifically do 20 not know of anyone who has been asked to do 21 something to determine that. 22 BY MR. DOSEK: 23 Q. Okay. Do you know if any attempt has been 24 made at Midwest Industrial Supply to do any kind 25 of chemical analysis or any other kind of</p>	<p style="text-align: right;">32</p> <p>1 BY MR. DOSEK: 2 Q. For purposes of determining whether there 3 was an infringement, yes. 4 A. Then I don't recall. 5 Q. Okay. What do you recall about the testing 6 that was done at Petro-Canada of the Durasoil 7 product? 8 A. I have not reviewed the documents in some 9 time. I would have to review the documents. 10 Q. So without reviewing the documents, you 11 don't remember anything about that? 12 A. No, I do not recall. 13 Q. Was a Durasoil product sample sent to 14 Petro-Canada? 15 A. Yes. 16 Q. Did you participate in doing that? 17 A. Yes. 18 Q. Was it before the issuance of the '266 or 19 '270 patent by the United States Patent and 20 Trademark Office or after? 21 A. I don't recall. 22 Q. Do you know when those patents were issued? 23 A. After 1998. 24 Q. That is all you know? 25 A. That is all I know, yes.</p>